IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1364/2002

RAMSWAROOP Vs. RAJASTHAN PATWAR SANGH & ORS.

DATE: 03.12.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Rajvir Sharma for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.

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The petitioner is having possession over the land belongs to Gram Rampura, Tehsil Ladpura, District Kota, in total 0.72 Hectares. The said land was allotted by the Collector, Kota for a private society considering their application dated 28.04.83 filed by the President of Patwar Sangh. The report from Tehsildar, Ladpura was also obtained and the Tehsildar has verified this fact that the petitioner is having possession over the disputed land. The Tehsildar has also given no objection if the land is allotted to the Patwar Grah Nirmal Sahkari Samiti. The land in question was allotted vide order dated 26.07.83.

This allotment order has been challenged by the petitioner on the ground that the land which was in possession of the petitioner has been allotted without

issuing notice to the petitioner and the same can only be removed after following the due process of law. Being aggrieved with the allotment order dated 26.07.83 passed by the Collector, Kota, the petitioner preferred an appeal before the Revenue Appellate Authority, Kota and the same was dismissed vide judgment dated 14.09.93.

Against the said judgment dated 14.09.93 passed by the Revenue Appellate Authority, Kota, the petitioner preferred an appeal before the Board of Revenue, Ajmer and the same was also dismissed vide order dated 04.08.98. A review petition was also preferred by the petitioner before the Board of Revenue and the same was also came to be dismissed vide order dated 03.12.2001.

Aggrieved and dissatisfied with the order of the Collector dated 26.07.83, order dated 14.09.93 passed by the Revenue Appellate Authority and the orders dated 04.08.98 and 03.12.2001 passed by the Board of Revenue, Ajmer in appeal and review petition respectively, the petitioner has preferred the instant writ petition on the ground that the allotment order dated 26.07.83 passed by the Collector, Kota is against the mandatory provisions of General Condition and Rajasthan Colonization (Chambal Project Government Land

Allotment and Sales) Rules, 1957. The allotment order is also challenged on the ground that under Section 92 of the Land Revenue Act, 1956, the Collector has no power to allot the land to any person other than public purpose. In the present case, the land has been allotted for a private society and not for public purpose. As per the petitioner, the Revenue Appellate Authority and the Board of Revenue have not considered the legal as well as factual aspect. As per the report submitted by the Tehsildar, Ladpura, the possession of the petitioner is well established and the same cannot be removed without following the due process of law.

I have perused the order dated 02.03.87 passed by the Assistant Collector & Executive Magistrate (Headquarter), Kota, wherein the Assistant Collector has considered the report submitted by the Tehsildar, Ladpura that the petitioner is trespasser over the land and since the land in question falls within the City Master Plan of Kota, therefore, neither such land can be regularised nor Section 88, 89, 91 and 188 of the Rajasthan Land Revenue Act applies to the instant case.

The Assistant Collector has framed as many as 5 issues to decide the suit. The main contention of the petitioner is that since 60 years his ancestors are having possession over the land in question, therefore,

considering the old possession the land be regularised in favour of the petitioner and the petitioner be declared Khatedar. This aspect was considered by the Assistant Collector but as observed herein above, since the land in question falls within the City Master Plan of Kota, therefore, the land cannot be regularised and thus, the suit filed by the petitioner has been dismissed.

The Revenue Appellate Authority having considered the judgments referred before it, found that the petitioner has got no right over the land as the land is Government land and the Board of Revenue has also upheld the order passed by the Assistant Collector as well as the Revenue Appellate Authority vide its judgment dated 04.08.98. In review also, the Board of Revenue refused to interfere and review the order dated 04.08.98 and dismissed the review petition vide its order dated 03.12.2001.

As all the Courts below have given concurrent findings against the petitioner, therefore, upon careful perusal of the impugned order passed by the Collector dated 26.07.83, order dated 14.09.93 passed by the Revenue Appellate Authority and the orders dated 04.08.98 and 03.12.2001 passed by the Board of Revenue, Ajmer in appeal and review petition respectively, I

find no illegality or error apparent on the face of the record. No interference whatsoever is called for.

Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed.

The ex parte interim order dated 25.02.2002 granted by this Court stands rejected. The stay application also stands dismissed.

(K.S. RATHORE),J.

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